

## **IC 28-13-17**

### **Chapter 17. Financial Subsidiary Activities of Financial Institutions**

## **IC 28-13-17-1**

### **"Financial institution" defined**

Sec. 1. As used in this chapter "financial institution" has the meaning set forth in IC 28-13-16-3.

*As added by P.L.63-2001, SEC.28 and P.L.134-2001, SEC.30.*

## **IC 28-13-17-2**

### **"Financial subsidiary" defined**

Sec. 2. As used in this chapter, "financial subsidiary" means a foreign or domestic corporation or limited liability company that is controlled by one (1) or more financial institutions that engages in a financial subsidiary activity.

*As added by P.L.63-2001, SEC.28 and P.L.134-2001, SEC.30.*

## **IC 28-13-17-3**

### **"Financial subsidiary activity" defined**

Sec. 3. As used in this chapter, "financial subsidiary activity" means:

- (1) an activity that has been authorized for a financial subsidiary of a national bank under 12 U.S.C. 24a and that may be conducted by a national bank only through a financial subsidiary; or
- (2) an activity that has been determined by the department to be financial in nature or incidental to a financial activity.

*As added by P.L.63-2001, SEC.28 and P.L.134-2001, SEC.30.*

## **IC 28-13-17-4**

### **"Control" defined**

Sec. 4. As used in this chapter, "control" has the meaning set forth in IC 28-2-13-12.

*As added by P.L.63-2001, SEC.28 and P.L.134-2001, SEC.30.*

## **IC 28-13-17-5**

### **"Hold an interest" defined**

Sec. 5. As used in this chapter, "hold an interest" means the ownership of any equity capital of a financial subsidiary.

*As added by P.L.63-2001, SEC.28 and P.L.134-2001, SEC.30.*

## **IC 28-13-17-6**

### **"Equity capital" defined**

Sec. 6. As used in this chapter, "equity capital" includes, in addition to an equity investment, a debt instrument issued by a financial subsidiary, if the instrument qualifies as capital of the financial subsidiary under any federal or state law, regulation, or interpretation applicable to the financial subsidiary.

*As added by P.L.63-2001, SEC.28 and P.L.134-2001, SEC.30.*

#### **IC 28-13-17-7**

##### **Interest in financial subsidiaries engaged in financial subsidiary activities**

Sec. 7. (a) Notwithstanding any other law, but subject to the provisions of this chapter, a financial institution may control or hold an interest in a financial subsidiary that engages in financial subsidiary activities.

(b) This section does not require an activity to be conducted through a financial subsidiary that is authorized to be conducted directly by the financial institution.

*As added by P.L.63-2001, SEC.28 and P.L.134-2001, SEC.30.*

#### **IC 28-13-17-8**

##### **Financial subsidiary activities engaged in as principal or new financial subsidiary activities**

Sec. 8. (a) A financial institution may not establish, control, or hold an interest of a financial subsidiary that engages in financial subsidiary activities as principal or commence any new financial subsidiary activity under this section or under 12 U.S.C. 1831w(a) unless the following occur:

(1) An application has been filed with the department before the financial subsidiary of the financial institution conducts financial subsidiary activities.

(2) The department determines that the financial subsidiary activity poses no significant adverse effects to the safety and soundness of the financial institution and approves the application. An approval under this subdivision may be made subject to conditions and restrictions determined necessary by the department to prevent unsafe or unsound banking practices.

(3) The financial institution and the financial subsidiary comply with 12 U.S.C. 371c and 12 U.S.C. 371c-1, as if the subsidiary were a financial subsidiary, as defined in 12 U.S.C. 371c(e)(1).

(4) All financial institution affiliates of the financial institution are well-capitalized, as defined in the appropriate capital regulation and guidance of each financial institution's primary federal regulator, and the financial institution complies with the capital deduction requirement in accordance with 12 CFR 362.4(e)(1) through 12 CFR 362.4(e)(3), discloses that capital separation in any published financial statements and does not consolidate the financial subsidiary's assets and liabilities with those of the financial institution in any published financial statements.

(5) The financial institution and the financial subsidiary meet the financial and operational safeguards applicable to a financial subsidiary of a national bank conducting the same activities as provided in 12 U.S.C. 24a(d).

(b) A financial institution that controls or holds an interest in a financial subsidiary engaged in a financial subsidiary activity must comply with the requirements of subsection (a)(2) through (a)(5), as long as the financial institution's financial subsidiary is engaged in

the financial subsidiary activity.

*As added by P.L.63-2001, SEC.28 and P.L.134-2001, SEC.30.*